

TAFT DEFINES HIS ATTITUDE.

NOT SEEKING THE PRESIDENTIAL NOMINATION.

He Doubts His Availability but Says That in the Improbable Event of the Nomination Coming to Him He Would Not Decline It—His Ambition Not Political.

WASHINGTON, Dec. 29.—In a prepared statement made public to-day William Howard Taft, the Secretary of War, said that he was not a candidate for the Presidential nomination. Everybody in Washington who knows anything of what is going on in a political way knew that, but there were other things in the statement which are interesting in throwing side lights on the talk about Taft and the Presidency. This is the statement:

"For the purpose of relieving the burden imposed by recent publications upon some of my friends among the Washington newspaper correspondents of putting further inquiries to me I wish to say that my ambition is not political; that I am not seeking the Presidential nomination; that I do not expect to be the Republican candidate, if for no other reason because of what seem to me to be objections to my availability, which do not appear to lessen with the continued discharge of my official duties; but I am not foolish enough to say that in the improbable event that the opportunity to run for the great office of President were to come to me I should decline it, for this would not be true."

This is the first public utterance made by Mr. Taft, or for that matter by any other prominent available Republican, concerning the use of his name as a candidate for the Presidential nomination in 1908. It was drawn out by the publication of what seemed to be an authentic explanation of Mr. Taft's attitude with reference to the selection of Mr. Roosevelt's successor. Whether the explanation was authentic or not the idea got around that it was, and Mr. Taft found that he had to say something to explain exactly what his position was or give the impression by silence that he had authorized it.

From the standpoint of the politicians the meat of Mr. Taft's brief statement of to-day is in the concluding phrase to the effect that he would not decline the opportunity to run for President if it were to come to him. This means, of course, exactly what it says, and does not mean, as some people in Washington would have it, that Mr. Taft is now an out and out candidate for the Presidency. Nor, on the other hand, does it mean that Mr. Taft has entirely eliminated himself from the contest for highest preferment two years hence.

It has been known in Washington for a long time exactly how Mr. Taft stood with reference to the alluring prospect held out to him of being the Republican standard bearer in the next national campaign. Naturally he was flattered over assurances from not only his own friends but from many leading Republicans that he was the one man who could save his party and his country in 1908. Besides, he knew, as nearly everybody did, that he was President Roosevelt's favorite for the race. But Mr. Taft was not carried off his feet by these flatteries. He positively declined to permit his friends to herald him as a candidate for Mr. Roosevelt's shoes or to make any effort, no matter how circumlocutory conducted, to get him prestige and votes among those who will have a say in the selection of the next Republican nominee. He put his foot down hard on all the suggestions and importunities that came to him, and when Mr. Taft puts his foot down there isn't any individual or combination of individuals strong enough to lift it.

Early this year, when it became known that President Roosevelt had offered to Secretary Taft the place on the United States Supreme Bench to be made vacant by the prospective retirement of Associate Justice Henry B. Brown, there was a lot of talk about Mr. Taft's Presidential prospects. It was said then that the President wanted to get Mr. Taft out of the way so that he (Mr. Roosevelt) could obtain another nomination. As a matter of fact Mr. Roosevelt had no intention at that time and has none now of trying to secure a third term. He made the offer to Mr. Taft because all Mr. Taft's tendencies were toward the bench, and it was not as an act of questionable friendliness but as a compliment to a man whom he liked as much for his abilities as for his personal qualities. The President gave Mr. Taft the opportunity of realizing his ambition to don the ermine.

When Mr. Taft declined, after several months consideration, to accept the flattering proffer of a dignified life office, and William H. Moody, another member of Mr. Roosevelt's Cabinet, was chosen for Justice Brown's place, there was a natural resumption of the reports that Mr. Taft was listening to the siren song of the Presidential bee. But those who credited these reports overlooked the important fact that they were not fully acquainted with the circumstances which led to Mr. Taft's decision.

At the time President Roosevelt told Mr. Taft that the coming vacancy on the highest judicial tribunal was Mr. Taft's if he wanted it the Secretary of War was engaged in work which was anxious to complete before leaving the War Department. Panama Canal affairs were not progressing as satisfactorily as Mr. Taft desired and there were things to be done with reference to the Philippines which he wanted to do himself. There were other important policies pending also. In not giving to the President a positive answer at the time the Supreme Court offer was made Mr. Taft was influenced mainly by the desire to adjust canal affairs, Philippine affairs and other affairs within his jurisdiction before the War Department.

Later when he declined to accept the proffer he was influenced to a great degree by these same conditions, although it is reasonable to suppose that he felt to a certain extent the justice of the insistence of his closest personal and political friends that he would be unfair to himself, to them and to his party if he placed himself beyond the prospect of having the Republican nomination for the Presidency come to him.

The Taft boom has grown recently, particularly since it became known that big men in the Republican party wanted Mr. Taft to try for the nomination. But Mr. Taft has shown that he regarded the office

TWICE STOLEN BOY SOON FOUND

WEIRD STORIES GROW UP ABOUT D'ARCY VAN ALSTYNE.

Mamma, Robbed of Boy in the Gileys. Where She Doesn't Live, Recovers Him at Hairdresser's Where Correspondent Is Alleged to Have Boarded Him Out.

Almost as weird as the story of the kidnapping of D'Arcy, the twice stolen four-year-old son of Guy C. Van Alstyne, the broker, from his mother's room in the Gileys House at 4 o'clock on Friday morning, is the story of his recovery last night by his mother and her lawyer, Maurice Meyer, in a hairdressing parlor on Sixth avenue, after Justice Davis had issued a writ of habeas corpus yesterday ordering the boy's father to produce him in court to-morrow morning.

Mr. Meyer's thrilling story of D'Arcy's recovery begins at 4:30 o'clock yesterday afternoon, when, he says, a woman friend of his wife called up his house, at 76 West Eighty-sixth street, and told her that a child answering the description of the Van Alstyne boy might be found at Kupatt's hairdressing parlor, on the second floor of 965 Sixth avenue.

"Mrs. Van Alstyne and I went over to the Sixth avenue place in a cab," said Meyer. "I stayed downstairs and sent Mrs. Van Alstyne into the hairdressing place with my clerk. They found no one in the place but a fifteen-year-old girl and a smaller girl. Mrs. Van Alstyne said that she wanted to get her hair dressed. The older girl replied that Mr. Kupatt was out and that she couldn't have anything done. Then Mrs. Van Alstyne saw a Christmas tree standing in the room and, speaking to the younger child, said:

"What a pretty tree that is. Was it all for you? Isn't there any other child in your family?" The child replied: "The Christmas tree was mine, but a little boy came here yesterday to board and I'm going to share it with him." The lawyer said that by this time Mrs. Van Alstyne's voice, which is quite piercing, had penetrated one of the inner rooms, and a child's voice was heard saying: "Is that you, mamma? Oh, mamma, I'm so happy that you've come after me. I want you to take me right home."

"Before Mrs. Van Alstyne could find out where the voice came from," said the lawyer, "D'Arcy toddled into the room, wearing only an undershirt. Mrs. Van Alstyne grabbed him into her arms, kissed him hysterically and began to cry. The girl in the place seemed relieved when the boy came out and said: "I'm glad you're going to take him home. Maybe he'll be satisfied now." Mrs. Van Alstyne wrapped her son warmly in her fur cloak, and without waiting to get any more of his clothing we went back to Rector's. After she had satisfied herself that D'Arcy was safe and sound Mrs. Van Alstyne called a carriage and took him home to her apartments in the Radcliffe, at 4 West Ninety-second street.

"When we asked the boy about his experience," Meyer went on, "he said that he was taken to the home of Mrs. Catherine Newman, the correspondent in the divorce case, at 1012 Dixie street, Flatbush, by his father after he had been kidnapped Friday morning. I also learned that the boy was put in the hairdressing parlor to board by Mrs. Newman and Mrs. Trinky Avant, one of the witnesses at the divorce trial.

Frederick Kupatt, the hairdresser, said last night that he had known Guy Van Alstyne two years. Van Alstyne went there Friday afternoon with the boy and was crying, Kupatt said. He asked Kupatt to board the boy for a week until he could make other arrangements. Kupatt consented, after consulting his wife. Van Alstyne kidnapped his boy first in New Jersey last summer. As to the Gileys House kidnapping Mrs. Van Alstyne's story points to a rather elaborate plot. She says that she became acquainted with a Mrs. A. Walker, who roomed at the Gileys House, and accepted an invitation to dine with her on Christmas afternoon. The boy went, too, and they stayed at the hotel that night, occupying a room next to Mrs. Walker.

The visit was prolonged until Thursday, and Mrs. Van Alstyne and her new acquaintance sat up late Thursday night in the latter's room. It was after midnight when Mrs. Van Alstyne went to her own room, where D'Arcy was already asleep. Meanwhile the room adjoining Mrs. Van Alstyne's had been taken for the night only by two men who signed as "A. Sampson" and "G. R. Hill."

About 4 o'clock in the morning Mrs. Van Alstyne heard a knock at her door. Believing it might be Mrs. Walker, she opened the door and was confronted by two men, one of whom she says was her husband and the other a lawyer who had been active in his legal affairs. Her husband, she says, dashed past her into the room. Then she noticed that at least two other men were behind Van Alstyne and the lawyer. There may have been five altogether, she thinks.

It took but a moment, according to her story, for Van Alstyne to seize the sleeping boy, wrap him in a blanket and dash out of the room. She screamed and tried to stop him, but one of the other men, she says, put his hand over her mouth, pushed her roughly back into the room, almost knocking her down, and slammed the door. She screamed and called on her husband to stop, Mrs. Van Alstyne got into the corridor, to be met by her friend, Mrs. Walker, who asked what the trouble was. The frantic mother tried to explain, but the moments so lost were enough to enable the kidnappers to disappear. The hotel people knew nothing more, when questioned, save that two men, known to the clerk and porter as guests of the house, went out quietly, though hurriedly, one carrying a bundle, apparently a child. An automobile was waiting and they got in and started off. As their room bills had been paid in advance no one offered to stop them.

BARONESS BURDETT-COUNTS SINKING.

Special Cable Dispatch to THE SUN.
PARIS, Dec. 29.—Provided this electrical cleaning is followed by auxiliary treatment in expelling from our bodies the morbid waste caused by electricity, there is no longer any internal reason for growing old or even dying."

This is the promise held out by the *Matin* after a lengthy explanation of Prof. d'Arsonval's high frequency current electrical treatment. The discoverer, who is one of the most eminent members of the Academy of Sciences, says that the majority of people die of arteriosclerosis. He uses a sphygmometer to measure the tension of the blood in the arteries. If the mercury of the instrument marks fifteen or sixteen centimetres it shows a normal tension. If the tension is higher or lower Prof. d'Arsonval states that six baths of the high frequency current will bring it to the normal, where it will remain, all danger of arteriosclerosis being removed.

These baths of five to ten minutes each may be taken three times a week. They give the patient absolutely no sensation. It only remains to find a method of checking microbes from without, and the *Matin* believes the world will possess the means of perpetual youth.

GOV-ELECT HUGHES IN ALBANY.

Driven to the Executive Mansion—Sends His Message to the State Printer.

ALBANY, Dec. 29.—Governor-elect Charles E. Hughes reached Albany at about 4 o'clock this afternoon on the private Empire State Express. He was accompanied by Mrs. Hughes, his two daughters, Helen and Catherine, and his son, Charles E., Jr., who is home from Brown University spending the Christmas holidays with his parents. Col. George Curtis Treadwell, who was military secretary to Governors Black and Roosevelt, and who will act in like capacity during the coming administration, met the Hughes party at the station and escorted them to their carriages and thence to the executive mansion.

The mansion had been prepared for the coming of the Governor-elect and his family by the State Superintendent of Public Buildings, who had repapered the living rooms and furnished new carpets. Mrs. Hughes sent from her New York home her piano and pianola and many articles of furniture and furniture which the family is especially attached to.

Governor-elect Hughes does not expect to go to the executive chamber at the Capitol before the inauguration on Tuesday, as he is sensitive about the assumption of authority before the ceremony arrives for him to take his oath of office as Governor. For this reason his secretary, Robert H. Fuller, said to-night that appointments or other action on the part of Mr. Hughes need not be looked for until after the inauguration.

Mr. Hughes brought his message, which will be submitted to the Legislature on Wednesday. It was in manuscript and was confidential in character, and as he arrived here. Although it is somewhat shorter than the usual messages of Governors, still it will comprise more than 5,000 words. The Governor-elect has not yet written his inaugural address.

Gov. Higgins returned to Albany to-night and will remain here until after inauguration. Then he will go away for a long rest.

SKENE'S APPOINTMENTS.

State Engineer-Elect Announces Them at Albany—Hearst League Gets Two.

ALBANY, Dec. 29.—State Engineer-elect Skene announced these appointments to-day: Division Engineer, eastern division, John F. Croden of New York, salary \$3,000. Division Engineer, middle division, H. B. Brewster of Syracuse, salary \$3,000. Special road examiner, Stephen Ryan of Shenango county, salary \$9 a day. Chief clerk, Charles O'Neill of New York city, salary \$1,100.

Auditor, ex-Senator Luke A. Keenan of Long Island city, salary \$2,500. Confidential stenographer, Mabel Weinhold of Long Island City, salary \$1,000. Ryan and Brewster are Independence League appointments.

Mr. Skene is to retain the present Republican chief clerk, Irving J. Morris of Watertown, and for a time he will retain the present Deputy State Engineer, Edmund F. VanHosen. By Monday he will announce the appointments of the engineers for the western division, his special deputy engineer and three financial clerks.

EXPECT FAIRCHILD TO RETURN.

District Attorney's Office Will Await Word From Him.

The District Attorney's office heard nothing yesterday from Charles S. Fairchild, who was indicted with George W. Perkins for forgery in the third degree.

Mr. Fairchild is in Europe, but there is no disposition on the part of the District Attorney's office to take steps to bring him back. In fact there is a pretty strong belief that as soon as Mr. Fairchild learns that he has been indicted he will come to this country at once to answer the charge. The investigation of the New York Life will be continued by Assistant District Attorney Kresel, who has been Mr. Jerome's right hand man in the entire insurance inquiry. Phases other than stock transactions with other companies will be taken up. It is not expected that Mr. Jerome will be able to devote much time to insurance this month because of the Thaw trial, which is set for January 21, and it is doubtful if there will be any insurance cases presented until the session of the February Grand Jury.

Surprise was expressed yesterday because only two officers of the New York Life were indicted. It was said that other officials of the company—members of the finance committee and trustees—must have been cognizant of the transactions on which Mr. Perkins and Mr. Fairchild were indicted. Other officials of the company were examined by the Grand Jury and it is said that it will be a hard job for them to deny their testimony before the Grand Jury should they be called as witnesses against either Mr. Perkins or Mr. Fairchild.

It was pointed out yesterday that Mr. Perkins was not under subpoena when he was called before the Grand Jury. He was a voluntary witness in the sense that he was produced by his counsel, Lewis L. Delafield, when he was wanted. Those who have suggested that Mr. Perkins might raise the point that he had been compelled to be a witness against himself have been informed that it will be difficult for him to raise such a question. Although he was questioned twice, the entire examination taking up four hours, it was said that while his testimony was material to the investigation it would be hard to show that his constitutional rights had been invaded.

WOMEN INCORPORATE A MINING COMPANY.

ST. PAUL, Dec. 29.—St. Paul and Minneapolis women have incorporated the Alaska Garnet Mining and Manufacturing Company, with a capital stock of \$1,000,000. No men are connected with the company. Marie R. Fowler of Minneapolis is president. The incorporators are E. Durkee, Mary T. Eimer, Pearl Gander and Pearl Hewitt, all of St. Paul. The board of directors is composed entirely of women. They will mine and manufacture garnet for jewelry and other things.

READY TO TEST THE CONNECTICUT.

NEWPORT NEWS, Va., Dec. 29.—Several members of the Naval Board of Inspection and Survey arrived from Washington this morning and boarded the Government built battleship Connecticut for tests of condensers. The ship's parts said to be giving trouble. The Connecticut sailed this evening for Yorktown, where the tests will be made.

CLEVELAND TO HAVE 3-1-2 CENT TROLLEY FARES.

CLEVELAND, Dec. 29.—The Cleveland Electric Railway to-day made formal announcement that beginning Monday it would put into effect 3½ cents fare on all of its lines at the city.

WHEN IN WASHINGTON, D. C.

Stop at the Shoreham, leading fashionable hotel. Metropolitan Standard, the Standard, American and European Plans. Adm.

21 SULLIVAN HEADS COME OFF.

OPENING OF THE MAYOR'S FIGHT ON CHARLES F. MURPHY.

Appointment of Dooling Instead of Voorhis to Be Commissioner of Elections Likely to Be the Next Thing—Manifesto From Mayor Expected When He Comes Back.

Mayor McClellan was at Princeton yesterday and will not return to town until Wednesday. With the beginning of the new year the Mayor is to take some steps to make it clear to Tammany that while he will do everything in reason for the organization he will not recognize the leadership of Charles F. Murphy. He will issue some sort of a manifesto giving his views on this matter, and his first action will be to refuse to recognize Mr. Murphy's recommendation that John R. Voorhis be reappointed as the Tammany member of the Bureau of Elections. Instead the Mayor will appoint a Tammany district leader, and by such appointment give plain evidence of fealty to the organization. A number of names of candidates for Mr. Voorhis's place were heard, the favorite being Peter J. Dooling. It was said, though, that the Mayor has not definitely selected the man.

Mayor McClellan has had talks with a number of important city and State Democrats who have advanced the opinion that warfare should be made upon Mr. Murphy as leader of Tammany. The fight from the beginning of the new year will, it was announced, be conducted for the purpose of ousting Mr. Murphy at the September primaries. The Mayor, it is said, has no candidate for leader to succeed Mr. Murphy, but the effort to displace Mr. Murphy will be made in the belief that as the fight progresses a leader will be evolved who will work in conjunction with the city administration.

The Sullivan, Big Tim and Little Tim, who have joined hands with Mr. Murphy in the latter's warfare on Mayor McClellan, are to be opposed, it was asserted yesterday, not by feathery duster methods, but by the methods which the Sullivan are most familiar with—patronage. There are other Tammany leaders close to Mr. Murphy who are described as knowing no political formula save patronage, and it is stated to be the Mayor's purpose if he cannot have peace in any other way to get peace with an axe. The warfare conducted by Mr. Murphy on Mayor McClellan because of the method which the Sullivan are most familiar with—patronage, has become more vigorous since the Sullivan, after affiliating with Mayor McClellan, returned to Mr. Murphy. It was said yesterday that the methods which Mr. Murphy and the Sullivan have employed to bring about the Mayor's discomfiture will with the beginning of the new year be adopted as far as possible in a war of reprisal to be conducted against Mr. Murphy and his chief allies in the organization.

Most of the recent trouble has come, it was declared, because of Mr. Murphy's refusal to recognize the election as executive committee members at the September primaries of Ahearn in the Seventeenth, Williams in the Nineteenth and Nagle in the Thirtieth. Mr. Murphy has refused to seat the men declared elected at the primaries and is now keeping them suspended in mid-air, awaiting some overt act on the part of Mayor McClellan in the matter of the reappointment of Voorhis. Mayor McClellan, it was positively stated last night, will not reappoint Mr. Voorhis, and it is his present intention to appoint Mr. Dooling. Mr. Murphy, J. Sergeant Cram, John T. Oakley and the Sullivan, Big Tim and Little Tim, were convinced that a war is in the air because known last night that twenty-one Sullivan heads had fallen into the basket yesterday. There was a great stir over the removal of these twenty-one adherents of Big Tim and Little Tim and their friends in the organization. The places were exempt under the civil service law and are considered very valuable from an organization standpoint. They pay from \$100 to \$125 a month. The men removed were corporation tax inspectors attached to the office of Commissioner John H. O'Brien.

DEAD OF A CHANCE SHOT.

Mrs. Steiner Dies of Wound She Got by Being Too Near a Street Shooting.

Mrs. Rosalie Steiner, 57 years old, of 341 East Fourteenth street, died at Bellevue Hospital last night of blood poisoning from a bullet wound in the right knee. Mrs. Steiner was in a crowd on Fourteenth street on the night of December 15 when Mrs. Irma Doray fired several shots at Captain James J. Sullivan of 30 East Fourteenth street. Sullivan got a bullet in the chin which healed up in a few days. Mrs. Steiner was shot in the knee, but the wound was not serious until blood poisoning set in.

NO TURKEY YET FOR ROOSEVELT.

President and Party Get Some Birds, but the Big Game Evades Them.

CHARLOTTEVILLE, Va., Dec. 29.—President Roosevelt, Dr. Rixey and Kermit and Theodore Roosevelt, Jr., spent this morning in the broad fields around Carter's Bridge, where some birds were bagged. The President and the boys did not return to the hunting lodge until night. The President is still trying to find the flock of turkeys that eluded him on his former visit, but so far without success.

LORD STRATHCONA TO RETIRE.

Canada's Commissioner to London Is 86 Years Old—On His Way Home.

OTTAWA, Ont., Dec. 29.—Lord Strathcona is now on his way to Canada and it is almost certain will ask to be relieved from the Canadian high commissionership at London. He is now 86 and wanted to retire last year, but the Government specially asked him to continue acting. He has held the place ten years.

ST. LOUIS UNDER PAUL OF FOG.

Street Traffic So Dangerous That Even Chauffeurs Run Carefully.

ST. LOUIS, Dec. 29.—Fog and smoke blanketed St. Louis and vicinity to-day. Traffic on the streets and on all railroads was impeded. Even chauffeurs were cautious as they sent their automobiles in the strange mists with red eyes through the murky streets. Signals at switches were invisible a hundred yards away and indistinguishable as to color at half the distance. Street cars crawled along.

LOW RATES TO THE ADIRONDACKS.

By the NEW YORK CENTRAL, January 1 to 14, 1907, return until January 31. Complete information on December 27. Adm.

PINEBURST—CAMDEN—FLORIDA.

See best Air Line shortest, quickest, pleasantest route. Office 110 Broadway, New York. Adm.

AGAINST COTTON EXCHANGE.

Complaint Filed With F. O. Department Asking for the Issue of a Restrictive Order.

WASHINGTON, Dec. 29.—Representative Livingston of Georgia to-day filed with the Post Office Department a formal complaint against the New York Cotton Exchange with a view to causing the Department to issue a fraud order against it.

This action is taken at the instance of the Southern Cotton Growers' Association and is based on allegations that the cotton delivered on contracts sold on the floor of the exchange is not of the grades represented. Mr. Livingston recently made complaint to the Department of Agriculture, but Secretary Wilson was unable to do anything in the matter.

BAILEY WINS FIRST CONTEST.

Comanche County Again Instructs Representative to Vote for Him for Senator.

DALLAS, Tex., Dec. 29.—Senator Bailey carried Comanche county to-day by an overwhelming vote, practically 4 to 1. His friends are celebrating to-night with bonfires, pyrotechnics, speech making and brass bands at the town of Lawton.

Senator Bailey, who is spending the night at Fort Worth, has been deluged with telegrams and telephone calls of congratulation. Four more special elections to determine whether representatives in the Legislature shall be bound by the primaries of last June to vote for Bailey for Senator are pending. Senator Bailey and his friends are confident of carrying these special elections. The anti-Bailey leaders at their State headquarters in Dallas to-night are depressed but express determination to continue the fight.

DATE FOR HARBOR STRIKE SET.

Tugboat Men Say They Will Quit Wednesday Unless Demand Is Granted.

A strike of 2,800 firemen and deckhands against twenty firms owning and plying tugboats in and around New York harbor to enforce a demand for an advance in wages of \$10 a month will take place on Wednesday unless the demand is granted by Tuesday night. The men belong to the Harbor Boatmen's branch of the International Seamen's Union, which has been over for two weeks. Only a few of them have granted the demands. None of the railroad companies is affected by this dispute.

CHICAGO MUNICIPAL OWNERSHIP.

Agreement Between City and Railroads Said to Have Been Arrived At.

ATLANTIC CITY, N. J., Dec. 29.—Men representing Chicago street railways and officials of the Chicago City Council, it is declared, practically settled the controversy over municipal control of the traction lines in Chicago at a meeting held at the Marlborough-Blenheim Hotel to-day and to-night. Under terms of the agreement, which will probably be ratified by both sides, the lines will be entirely rehabilitated, and in event of their being taken over by the city perfect titles will be guaranteed by the companies. Traction interests were represented by George Wickersham, Lewis Krausopf, Bernard Tolles and R. R. Govin of New York and W. W. Quinley, H. E. Sandfield, John M. Horton and H. Blair of Chicago, while Attorney Walter Fisher and Charles Weiner, president of the Chicago street railway commission, acted for the city. The meeting was held behind closed doors and a guard of hotel employees kept away seekers after news of the conference. Attorney Fisher stated after the meeting that the agreement reached resulted from concessions on both sides and that only small details remained to be settled before the city of Chicago could exercise the power of securing the public ownership of street railways demanded by the administration.

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CARUSO'S CONVICTION UPHOLD.

THE CASE WILL NOW GO TO THE APPELLATE DIVISION.

Meanwhile Policeman Cain Has Been Accused of Swearing He Didn't Know Where a Complainant Lived When He Did Know—His Record Sent to Jerome.

The conviction of Enrico Caruso, the Metropolitan Opera House tenor, for disorderly conduct in the monkey house in Central Park was affirmed yesterday by Recorder Goff. Caruso appealed from the decision of Magistrate Baker, who fined him \$10. Caruso can appeal from Recorder Goff's decision to the Appellate Division. It was announced that he would do so.

Recorder Goff holds that Magistrate Baker performed his duty and that there is nothing in the record of the case to show that he erred in law. It was not essential, the Recorder says, that Hannah Graham, the woman who made the complaint against Caruso at the Arsenal in Central Park after his arrest, should have appeared against him before the Magistrate.

The Recorder holds that the offense was not so much against an individual as against public order and decency. In that respect the Recorder overrules the point raised by ex-Judge A. J. Dittenhofer, counsel for Caruso, that if Caruso committed any offense it was a misdemeanor, and Magistrate Baker should have held him for trial in Special Sessions. This is the decision:

"Because of the limitation of time and the approaching end of my jurisdiction, I am constrained to render my opinion, expressing what I believe to be principles well settled and sustained by authority."

"Section 675 of the Penal Code has not superseded or nullified section 1458 of the Consolidation act."

"There is such an offense as 'disorderly conduct' that tends to a breach of the peace."

"It was not essential to the conviction that the woman, Hannah Graham, should be present and give her testimony. The offense is not so much against the individual as it is against public order and decency."

"The Magistrate did not err in refusing to admit the police officer's testimony. It was not a public record which would prove itself. It was simply a memorandum made by the police sergeant, and could only be used to show contrary admission made by a witness where a proper foundation had been laid to impeach his testimony. No such foundation was laid."

"On the question of the weight of evidence and the credibility to be given to the witness, the law rested in the Magistrate's power to decide all questions of fact, and to render his judgment on the testimony as he believed it and, unless it appears that there was an abuse of discretion or a determination clearly against the weight of evidence, an appellate court cannot disturb the judgment. An examination of the record does not disclose any error prejudicial to the defendant. As matter of fact, the Magistrate's decision erred in his judgment, and as matter of fact I cannot substitute my judgment for his. He had the witnesses before him, and from their appearances and behavior, testimony, and their manner of giving it, he was best qualified to judge of their credibility. Even though I should come to the conclusion that if I were sitting in his place I should render a different judgment, I should not justify me in reversing his judgment. Until the contrary is shown I must assume that the Magistrate performed his duty. I am limited by the record certified by the court below. On it alone can I pass judgment, and I cannot superimpose upon it my views as to what could or should have been done. Conviction affirmed."

In the first paragraph of the decision the Recorder holds that under the Consolidation act there is such a thing as disorderly conduct and that the Penal Code does not supersede it.

Judge Dittenhofer was at Atlantic City yesterday. At his office I. M. Dittenhofer said that it was the intention to appeal from Recorder Goff's decision should it be against Caruso. There was some discussion as to whether Recorder Goff's decision could be appealed from, but at the District Attorney's office and among the Judges it was said that an appeal could be made to the Appellate Division.

Recorder Goff intended to go into the merits of the case and make a much longer decision. His time was taken up, however, with the trial of Col. William D. Mann of Town Topics and other duties.

Caruso had no comment to make when told of the decision of Recorder Goff. Mr. Corried, who is ill with colic, refused to be seen. The monkey is dead.

This has been breaking badly for Plain Clothes Man James J. Cain since he arrested Caruso in the Central Park monkey house. It wasn't long after the Caruso matter that Cain was transferred from his soft job in the park and sent up to the West 162d street station to work on Inspector Dennis Sweeney's staff. Yesterday he was accused in the Harlem police court before Magistrate Barlow of making a false affidavit to the effect that the complainant in an assault case could not be found, when he knew, the lawyer for the complainant swore, where the complainant lived and that the man was sick in bed.

On Christmas Day Cain, working with his partner, Detective Condon, arrested Giovanni Liberatore of 478 West 165th street for